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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

GRAND JURY SUBPOENA TO
THE SAN FRANCISCO CHRONICLE

CASE NO. CR 06-90355-MISC JSW

**ADMINISTRATIVE MOTION FOR
CLARIFICATION OF BRIEFING
SCHEDULE; ~~PROPOSED~~ ORDER**

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Pursuant to Criminal Local Rule 2-1 and Civil Local Rule 7-11, movant the *San Francisco Chronicle* respectfully files the instant administrative motion to clarify the due date for filing of movant's reply brief in support of its Motion to Quash Subpoena by the San Francisco Chronicle. This motion is unopposed, as the government has a reply brief due on the same schedule as movant in support of its separate Motion for an Order to Show Cause re: Contempt in the related case *In re Grand Jury Subpoenas to Mark Fainaru-Wada and Lance Williams*, Case No. CR 06-90225-MISC JSW.

At the teleconference held on September 7, 2006, the Court confirmed that the government did not object to the relation of the instant case to *In re Grand Jury Subpoenas to Mark Fainaru-Wada and Lance Williams*, Case No. CR 06-90225-MISC JSW, but otherwise did not alter the hearing date on the Motion to Quash set for September 21, 2006 pursuant to Criminal Local Rule 47-2.

Criminal Local Rule 47-2 requires that opposition papers be filed not less than seven calendar days before the date set for hearing and that reply papers be filed not less than four calendar days before the date set for hearing. Crim. L. R. 47-2(d). As the hearing on the Motion to Quash is set for Thursday, September 21, 2006, the reply papers are thereby due on Sunday, September 17, 2006. Movant interprets Federal Rule of Civil Procedure Rule 6(a)—which operates to exclude Saturdays and Sundays from time calculations such that “the period runs until the end of the next day which is not one of the aforementioned days”—as making Monday, September 18, 2006 the due date for the reply papers. Fed. R. Civ. Proc. 6(a). The government concurs, and similarly interprets Rule 6(a) as providing the government until Monday, September 18 to file reply papers in support of its Motion for an Order to Show Cause re: Contempt in the related case *In re Grand Jury Subpoenas to Mark Fainaru-Wada and Lance Williams*. Given that there is no known authority on point concretely applying Rule 6(a) in situations where local rules measure deadlines backward from the hearing date (*see* Schwarzer, Tashima & Wagstaffe, CAL. PRAC. GUIDE: FED. CIV. PRO. BEFORE TRIAL (The Rutter Group 2006), 12:102.7), and in an abundance of caution, the *San Francisco Chronicle* respectfully files the instant motion for the Court's clarification and confirmation that the reply

1 papers are due on Monday, September 18.

2 Respectfully submitted,

3 Dated: September 13, 2006

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7 By /S/
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8 Attorneys for the *San Francisco Chronicle*

~~PROPOSED~~ ORDER

The Court having considered the Administrative Motion for Clarification of Briefing Schedule and the arguments raised therein, and good cause appearing, ~~IT IS HEREBY CONFIRMED~~ that any reply papers filed by movant the *San Francisco Chronicle* in support of its Motion to Quash are due Monday, September 18, 2006.

DATED: Sept. 13, 2006


The Honorable Jeffrey S. White